

REMARKS

Claims 1-17 are pending in the application. Claim 15 is allowed. Claims 1-4, 6-8, 10-14, 16 and 17 are rejected. Claims 5 and 9 are objected to. The previous objection to the specification has been withdrawn. The Examiner has also withdrawn the rejection of claims 1-3, 6 and 7 under 35 U.S.C. § 102(b) as being anticipated by Nakamura (U.S. Pat. No 5,984,320).

The Examiner now rejects claims 1-4, 6-8, 10, 14, 16 and 17 under 35 U.S.C. § 102(e) as being anticipated by Yang et al. (U.S. Patent 6,848,691 [hereinafter "Yang"]). Claim 1 was previously amended to recite a slotted portion which guides the convex engaging means toward the concave engaging means, such that upon reaching the concave engaging means, the convex engaging means extends into the concave engaging means so as to be held in place.

The Examiner contends that Yang discloses a rotary sleeve 5, a ring member 7, a rotary nut 2 and jaws 3. The Examiner further asserts that Yang discloses a concave groove portion 5-2 located on the circumferential surface of the rotary sleeve, and a convex engaging means 7-1, 7-2 having an arm projection. Element 5-1 of Yang is applied against the claimed slotted portion, which the Examiner asserts guides the convex engaging means 7-1, 7-2 towards the concave groove portion 5-2, until the convex tab projection 7-2 reaches and extends into the concave groove portion 5-2 so as to be held in place. The Examiner cites col. 5, lines 31-41 of Yang for describing these features.

A difference between an exemplary embodiment of the present invention and Yang is that the slotted portion may be positioned *above* the concave engaging means. For example, as shown in the exemplary embodiment of present Fig. 2, the slotted portion (e.g., 6) is disposed

above the concave portion 9. Yang does not disclose this feature because the alleged slotted portion 5-1 of Yang is disposed “below” the alleged concave groove portion 5-2.

Accordingly, Applicants amend claim 1 to recite “wherein the slotted portion is positioned above the concave engaging means in a state where a tip end of the jaw points downwardly.” Yang, therefore, fails to disclose each feature recited in claim 1, such that the rejection should be withdrawn. Further, one skilled in the art would not have been motivated to modify Yang to obtain this feature due to the slotted portion 5-1 of Yang necessarily being positioned *below* the concave groove portion 5-2. Claims 2-4, 6-8, 10, 14 and 17 are not anticipated by Yang at least due to their dependencies on claim 1. Claim 16 is deemed allowable due to its dependency on allowed claim 15.

35 U.S.C. §103:

Claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yang in view of Owens et al. (U.S. Patent 5,465,983 [hereinafter “Owens”]). The Examiner applies Owens for allegedly disclosing a rotary sleeve made of a deformable plastic material.

Claim 12 is rejected under 35 U.S.C. §103(a) as being anticipated over Yang in view of Sakamaki et al. (U.S. Patent 6,659,474 [hereinafter “Sakamaki”]). The Examiner applies Sakamaki for allegedly disclosing a concave engaging means extending through a wall 18 of a rotary sleeve in Fig. 12.

Claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yang. The Examiner acknowledges that Yang is silent in regard to the configuration of the slotted portion 5-1. The Examiner, thus, contends that one skilled in the art would have been motivated to provide the slot 5-1 of Yang with a tapered shape.

Claims 11, 12 and 13 are deemed patentable over the applied references at least due to their respective dependencies upon claim 1, because the features of amended claim 1 are neither taught nor suggested by the combination of 1) Yang and Owens; and 2) Yang and Sakamaki.

In further regard to claim 13, Applicants respectfully submit that there is no teaching or suggestion that would have motivated one to provide the slotted portion 5-1 with a tapered surface. In the exemplary embodiment of present Fig. 4, the tapered surface of the slotted portion is shown near element 6. The Examiner contends that it would have been a matter of “design choice” to provide Yang with the tapered surface. However, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The Examiner cannot substitute an assertion of “design choice” for the required “factual basis,” when considering a physical element with characteristics not taught or suggested by the art. The prior art must provide one of ordinary skill in the art with the motivation to make the proposed modifications needed to arrive at the claimed slotted portion. The art does not provide this motivation.

Therefore, Applicants submit that claim 13 is patentable over Yang at least due to its dependency upon claim 1, in addition to Yang neither teaching nor suggesting the claimed slotted portion.

Amendment Under 37 C.F.R. § 1.116
U.S. Application No. 10/727,531

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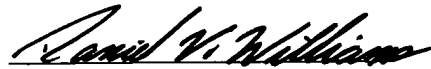
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